



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

VIA ELECTRONIC MAIL

Mr. Timothy Allen
3669 New Bethel Road
Cameron, West Virginia
tacattleman@gmail.com

Re: **Section 308 Request for Information**
Goshorn/Timothy James Hubbs Impoundment Site

Dear Mr. Allen:

The U.S. Environmental Protection Agency, Region III (EPA) is contacting you about the ongoing matter involving a property that you have indicated you own or control, Goshorn/Timothy James Hubbs Impoundment Site (EPA Docket # CWA-03-2013-0058DW). The Goshorn/Timothy Hubbs Trust Impoundment Site is located approximately 2,800 linear feet southeast of the intersection of New Bethel/Goshorn Ridge Road/County Highway 62 and Dixon Ridge in Cameron, Marshall County, West Virginia. The Site contains impacts to 1,250 linear feet of tributaries to Left Fork Maggoty Run. See Exhibit A hereto.

Section 308 Request for Information

The U.S. Environmental Protection Agency, Region III ("EPA") is seeking information pursuant to the authority granted to it under Section 308 of the Clean Water Act, 33 U.S.C. § 1318 ("CWA" or "Act"), and the regulations promulgated thereunder.

For each and every request, if you have reason to believe that there may be a person(s) who may be able to provide a more detailed or complete response to such request or may be able to provide additional responsive documents, then as a part of your response to such request, identify each such person and the additional information or documents which such person may be able to provide. Furthermore, for each and every response, if information or documents responsive to such request are not in your possession, custody or control, then as part of your response to such request, identify each person from whom such information or documents may be obtained.

EPA is authorized under Section 308(a) of the Act, 33 U.S.C. § 1318(a), to require owners and/or operators of any point source to, among other things, provide certain information, establish records and make such reports as necessary to carry out the objectives of the Act. Pursuant to Section 308 of the Act, 33 U.S.C. § 1318, you are directed to provide to EPA the information requested in the enclosure. You should be aware that failure to provide the requested information or providing misleading or false information may result in the issuance of orders requiring compliance, the imposition of civil or administrative penalties, or the imposition of criminal fines or penalties. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

You are entitled to assert a claim of business confidentiality covering any part or all of the information, in a manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the requested information is submitted, EPA may make this information available to the public without further notice to you. This inquiry is not subject to review by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. (See 5 C.F.R. § 1320.3(c)).

Your response is required within **thirty calendar days** of receipt of this letter. Please forward the requested information to Ms. Katelyn Almeter as set forth in the Instructions.

This request is of an ongoing nature. Should any additional information or documentation become available after you have provided responsive documents, then you have an obligation to provide such additional information or documentation to EPA.

Should you have any questions regarding this information request, please contact Stefania Shamet, Senior Assistant Regional Counsel, at (215) 814-2682. Thank you for your attention to this matter. I strongly encourage you to give this matter your full consideration. EPA reserves the right to seek the maximum allowable penalty at law through any appropriate enforcement action(s).

Sincerely,

Rick Rogers, Chief
Water Branch
Enforcement & Compliance Assurance Division

Enclosure

cc. Jeremy Bandy – WVDEP (Jeremy.W.Bandy@wv.gov)
Jon Coleman – USACE, Pittsburgh (Jon.T.Coleman@usace.army.mil)

INFORMATION REQUEST

The United States Environmental Protection Agency, Region III ("EPA") seeks the information described herein pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318. The Instructions and Definitions for responding to this Information Request are as follows:

A. Instructions & Definitions

1. A separate narrative response must be made for each question set forth below, and for each subpart of each question.
2. Precede each answer with the corresponding number of the question and subpart to which it responds.
3. Provide all information and documents in your possession which relate to the responses given. With respect to each document, identify the date, author, addressee, current location, and custodian and identify the question or subpart to which it relates.
4. The term "document" refers to "writings," "recordings" and "photographs" as those terms are defined in Rule 1001 of the Federal Rules of Evidence. The term "document" also refers to electronically stored "writings," "recordings," "emails," and "reports," among other things, created in the ordinary course of business and that are relevant to the operation or business undertakings of Timothy Allen. Documents should be produced as they are kept in the usual course of business and if in electronic form, in a format that can be accessed and read by EPA.
5. If any question cannot be answered in full, answer to the fullest extent possible along with an explanation of why the question cannot be answered in full. If your responses are qualified in any manner, please explain.
6. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to EPA. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide a corrected response.
7. The terms "you" and "your" refers to Mr. Timothy Allen (hereinafter "Respondent").
8. The term "Site" refers to those properties formerly owned or controlled or held in trust by the Timothy James Hubbs Trust, and on information and belief, currently owned or controlled or held in trust by Timothy Allen, and known as the "Goshorn Well Pad and Impoundment Site," located at approximately 2,800 linear feet southeast of the intersection of New Bethel/Goshorn Ridge Road/County Highway 62 and Dixon Ridge, Cameron, Marshall County, West Virginia (see Exhibit A).

9. The following certification must accompany each submission pursuant to this request and must be signed by a representative authorized to respond on behalf of Respondent:

“I certify that the information contained in or accompanying this submission is true, accurate, and complete. As to the identified portion(s) of this submission for which I cannot personally verify its truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting under my direct instructions, made the verification, that this information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment.”

10. All information shall be submitted thirty (30) days of receipt of this Request for Information, by email, to:

Katelyn Almeter (3ED31)
SDWA & Wetlands Section
Enforcement and Compliance Assurance Division
United States Environmental Protection Agency Region III
almeter.katelyn@epa.gov

B. Information Sought

Pursuant to Section 308 of the Clean Water Act, 33 U.S.C. § 1318, submit the following information pursuant to the Instructions set forth above:

- 1) State the name, address, telephone number, email address and occupation of each person providing responses, or contributing information to the responses, to these requests for information.
- 2) Provide documentation demonstrating your ownership interest in the Site.
- 3) Does anyone else have an ownership interest in the Site? If yes, identify any other person or entity with an ownership interest in the Site.
- 4) If you own or operate the Site through a business, rather than as an individual, identify the business and the business form. If a corporation, provide the name and address of the corporation's agent for service of process.
- 5) Describe all activities and purposes for which the pond or impoundment on the Site is used.
- 6) Is the pond or impoundment used as a source of water for livestock? If yes:
 - a) Identify the type (cattle, poultry, etc.) and quantity of livestock for which the pond or impoundment is used as a source of water.
 - b) Identify the date on which water from the pond or impoundment began being used as a source of water for livestock.
 - c) Do the livestock have access to the pond or impoundment?

- d) Describe all means by which water from the pond or impoundment is made available to the livestock (pumping, trucking, etc.). Provide a map showing the location of any intake, pipe or access road. If the water is trucked to the livestock, describe the capacity of each truck and how many trucks are used.
 - e) Are the livestock sold? If yes, provide documentation of each sale and each contract for sale from 2015 through the present.
- 7) Is the pond or impoundment used as a source of water for crops? If yes:
- a) Identify the type, approximate quantity, and location of the crops. Provide a map identifying the location of the crops relative to the pond or impoundment.
 - b) Identify the date on which water from the pond or impoundment began being used as a source of water for crops.
 - c) Describe all means by which water from the pond or impoundment is delivered to the crops (pumping, trucking, etc.). Provide a map showing the location of any intake, pipe, or access road. If water is trucked to the crops, describe the capacity of each truck and how many trucks are used.
 - d) Describe the manner of irrigation (spray, drip, etc.).
 - e) Are the crops sold? If yes, provide documentation of each sale and each contract for sale from 2015 through the present.
- 8) Is the Site valuation for purposes of Marshall County property tax based upon farm use? If yes, provide documentation demonstrating the valuation.
- 9) Is the Site subject to a Farm Discount for purposes of Marshall County property tax? If yes, provide documentation demonstrating the Farm Discount.
- 10) Provide copies of all plans submitted to Natural Resources Conservation Service (NRCS), county conservation district, or other agency and all other documentation that relates to use of the Site.